

1                                   **REPORTING OPTIONS FOR AUTO INSURANCE**

2   2012 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Kevin T. Van Tassell**

5                                   House Sponsor: Bradley M. Daw

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Insurance Code and Motor Vehicles Code by amending  
10 provisions relating to motor vehicle insurance reporting.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ provides that certain insurers that issue motor vehicle coverage for certain motor  
14 vehicles shall, upon request, provide to the Department of Public Safety's  
15 designated agent verification of whether or not a motor vehicle insurance policy is  
16 in effect for a specified vehicle;
- 17           ▶ provides that the insurer shall provide the verification using an electronic service  
18 established by the insurers, through the Internet, world wide web, or a similar  
19 proprietary or common carrier electronic system that is compliant with certain  
20 standards and requirements;
- 21           ▶ provides that the Commissioner of Insurance may assess a fine against an insurer for  
22 noncompliance;
- 23           ▶ provides that under certain circumstances, the commissioner shall excuse the fine;
- 24           ▶ provides that the designated agent shall make available the verification information  
25 provided by insurers to:
  - 26           • state and local law enforcement agencies; and
  - 27           • certain financial institutions;
- 28           ▶ provides a July 1, 2016, sunset date; and
- 29           ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill takes effect on July 1, 2013.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **41-12a-803**, as last amended by Laws of Utah 2011, Chapter 342

37 **41-12a-805**, as last amended by Laws of Utah 2009, Chapter 183

38 **63I-2-231**, as last amended by Laws of Utah 2011, Chapter 284

39 ENACTS:

40 **31A-22-315.5**, Utah Code Annotated 1953



42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **31A-22-315.5** is enacted to read:

44 **31A-22-315.5. Motor vehicle insurance verification -- Penalty.**

45 (1) (a) Except as provided in Subsection (1)(b), and in addition to the reporting  
46 requirements under Section 31A-22-315, each insurer that issues a policy that includes motor  
47 vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage, or  
48 personal injury coverage under this part shall, upon request, provide to the Department of  
49 Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8,  
50 Uninsured Motorist Identification Database Program, verification of whether or not a motor  
51 vehicle insurance policy is in effect for a specified vehicle.

52 (b) An insurer that issues a policy that includes motor vehicle liability coverage,  
53 uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage  
54 under this part is not required to provide verification of a motor vehicle insurance policy in  
55 effect for a vehicle to the Department of Public Safety's designated agent under Subsection

56 (1)(a) if:

57 (i) the policy covers a vehicle that is registered under Section 41-1a-221, 41-1a-222, or

58 41-1a-301;

59 (ii) the policy covers a commercial motor vehicle; or

60 (iii) the insurer issues insurance for less than 500 motor vehicles.

61 (2) Each insurer shall provide the verification required under Subsection (1) using an  
62 electronic service established by the insurers, through the Internet, world wide web, or a similar  
63 proprietary or common carrier electronic system that:

64 (a) is compliant with:

65 (i) the specifications and standards of the Insurance Industry Committee on Motor  
66 Vehicle Administration; and

67 (ii) other applicable industry standards;

68 (b) is available 24 hours a day, seven days a week, subject to reasonable allowances  
69 for:

70 (i) scheduled maintenance; or

71 (ii) temporary system failures; and

72 (c) includes appropriate security measures, consistent with industry standards, to:

73 (i) secure its data against unauthorized access; and

74 (ii) maintain a record of all information requests.

75 (3) (a) The commissioner may, following procedures set forth in Title 63G, Chapter 4,  
76 Administrative Procedures Act, assess a fine against an insurer of up to \$250 for each day the  
77 insurer fails to comply with this section.

78 (b) The commissioner shall excuse the fine if an insurer shows that the failure to  
79 comply with this section was:

80 (i) inadvertent;

81 (ii) accidental; or

82 (iii) the result of excusable neglect.

83 Section 2. Section **41-12a-803** is amended to read:

84 **41-12a-803. Program creation -- Administration -- Selection of designated agent**  
85 **-- Duties -- Rulemaking -- Audits.**

- 86 (1) There is created the Uninsured Motorist Identification Database Program to:
- 87 (a) establish an Uninsured Motorist Identification Database to verify compliance with
- 88 motor vehicle owner's or operator's security requirements under Section 41-12a-301 and other
- 89 provisions under this part;
- 90 (b) assist in reducing the number of uninsured motor vehicles on the highways of the
- 91 state;
- 92 (c) assist in increasing compliance with motor vehicle registration and sales and use tax
- 93 laws;
- 94 (d) assist in protecting a financial institution's bona fide security interest in a motor
- 95 vehicle; and
- 96 (e) assist in the identification and prevention of identity theft and other crimes.
- 97 (2) The program shall be administered by the department with the assistance of the
- 98 designated agent and the Motor Vehicle Division.
- 99 (3) (a) The department shall contract in accordance with Title 63G, Chapter 6, Utah
- 100 Procurement Code, with a third party to establish and maintain an Uninsured Motorist
- 101 Identification Database for the purposes established under this part.
- 102 (b) The contract may not obligate the department to pay the third party more money
- 103 than is available in the account.
- 104 (4) (a) The third party under contract under this section is the department's designated
- 105 agent, and shall develop and maintain a computer database from the information provided by:
- 106 (i) insurers under Section 31A-22-315;
- 107 (ii) the division under Subsection (6); and
- 108 (iii) the Motor Vehicle Division under Section 41-1a-120.
- 109 (b) (i) The database shall be developed and maintained in accordance with guidelines
- 110 established by the department so that state and local law enforcement agencies and financial
- 111 institutions as defined in Section 7-1-103 can efficiently access the records of the database,
- 112 including reports useful for the implementation of the provisions of this part.
- 113 (ii) (A) The reports shall be in a form and contain information approved by the

114 department.

115 (B) The reports may be made available through the Internet or through other electronic  
116 medium, if the department determines that sufficient security is provided to ensure compliance  
117 with Section 41-12a-805 regarding limitations on disclosure of information in the database.

118 (5) With information provided by the department and the Motor Vehicle Division, the  
119 designated agent shall, at least monthly for submissions under Subsection 31A-22-315(2)(b) or  
120 at least twice a month for submissions under Subsection 31A-22-315(2)(a):

121 (a) update the database with the motor vehicle insurance information provided by the  
122 insurers in accordance with Section 31A-22-315; and

123 (b) compare all current motor vehicle registrations against the database.

124 (6) The division shall provide the designated agent with the name, date of birth,  
125 address, and driver license number of all persons on the driver license database.

126 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
127 department shall make rules and develop procedures in cooperation with the Motor Vehicle  
128 Division to use the database for the purpose of administering and enforcing this part.

129 (8) (a) The designated agent shall archive computer data files at least semi-annually for  
130 auditing purposes.

131 (b) The internal audit unit of the tax commission provided under Section 59-1-206  
132 shall audit the program at least every three years.

133 (c) The audit under Subsection (8)(b) shall include verification of:

134 (i) billings made by the designated agent; and

135 (ii) the accuracy of the designated agent's matching of vehicle registration with  
136 insurance data.

137 (9) Upon request, the designated agent shall make available the information provided  
138 by insurers under Section 31A-22-315.5 to:

139 (a) state and local law enforcement agencies; and

140 (b) financial institutions as defined in Section 7-1-103.

141 Section 3. Section **41-12a-805** is amended to read:

142 **41-12a-805. Disclosure of insurance information -- Penalty.**

143 (1) Information in the database established under Section 41-12a-803 provided by a  
144 person to the designated agent is considered to be the property of the person providing the  
145 information.

146 (2) The information may not be disclosed from the database under Title 63G, Chapter  
147 2, Government Records Access and Management Act, or otherwise, except as follows:

148 (a) for the purpose of investigating, litigating, or enforcing the owner's or operator's  
149 security requirement under Section 41-12a-301, the designated agent shall verify insurance  
150 information through the state computer network for a state or local government agency or  
151 court;

152 (b) for the purpose of investigating, litigating, or enforcing the owner's or operator's  
153 security requirement under Section 41-12a-301, the designated agent shall, upon request, issue  
154 to any state or local government agency or court a certificate documenting the insurance  
155 information, according to the database, of a specific individual or motor vehicle for the time  
156 period designated by the government agency;

157 (c) upon request, the department or its designated agent shall disclose whether or not a  
158 person is an insured individual and the insurance company name to:

159 (i) that individual or, if that individual is deceased, any interested person of that  
160 individual, as defined in Section 75-1-201;

161 (ii) the parent or legal guardian of that individual if the individual is an unemancipated  
162 minor;

163 (iii) the legal guardian of that individual if the individual is legally incapacitated;

164 (iv) a person who has power of attorney from the insured individual;

165 (v) a person who submits a notarized release from the insured individual dated no more  
166 than 90 days before the date the request is made; or

167 (vi) a person suffering loss or injury in a motor vehicle accident in which the insured  
168 individual is involved, but only as part of an accident report as authorized in Section  
169 41-12a-202;

170 (d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations  
171 by state or local law enforcement agencies related to the:

172 (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter  
173 1a, Motor Vehicle Act;

174 (ii) purchase of a motor vehicle under Title 59, Chapter 12, Sales and Use Tax Act; and

175 (iii) owner's or operator's security requirements under Section 41-12a-301;

176 (e) upon request of a peace officer acting in an official capacity under the provisions of  
177 Subsection (2)(d), the department or the designated agent shall, upon request, disclose relevant  
178 information for investigation, enforcement, or prosecution;

179 (f) for the purpose of the state auditor, the legislative auditor general, or other auditor  
180 of the state conducting audits of the program;

181 (g) upon request of a financial institution as defined under Section 7-1-103 for the  
182 purpose of protecting the financial institution's bona fide security interest in a motor vehicle;  
183 and

184 (h) upon the request of a state or local law enforcement agency for the purpose of  
185 investigating and prosecuting identity theft and other crimes.

186 (3) (a) The department may allow the designated agent to prepare and deliver upon  
187 request, a report on the insurance information of a person or motor vehicle in accordance with  
188 this section.

189 (b) The report may be in the form of:

190 (i) a certified copy that is considered admissible in any court proceeding in the same  
191 manner as the original; or

192 (ii) information accessible through the Internet or through other electronic medium if  
193 the department determines that sufficient security is provided to ensure compliance with this  
194 section.

195 (c) The department may allow the designated agent to charge a fee established by the  
196 department under Section 63J-1-504 for each:

197 (i) document authenticated, including each certified copy;

198 (ii) record accessed by the Internet or by other electronic medium; and

199 (iii) record provided to a financial institution under Subsection (2)(g).

200 (4) A person who knowingly releases or discloses information from the database for a  
201 purpose other than those authorized in this section or to a person who is not entitled to it is  
202 guilty of a third degree felony.

203 (5) An insurer is not liable to any person for complying with [~~Section~~] Sections  
204 31A-22-315 and 31A-22-315.5 by providing information to the designated agent.

205 (6) Neither the state nor the department's designated agent is liable to any person for  
206 gathering, managing, or using the information in the database as provided in [~~Section~~] Sections  
207 31A-22-315 and 31A-22-315.5 and this part.

208 Section 4. Section **63I-2-231** is amended to read:

209 **63I-2-231. Repeal dates, Title 31A.**

210 (1) Section 31A-22-315.5 is repealed July 1, 2016.

211 (2) Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, is repealed January  
212 1, 2013.

213 Section 5. **Effective date.**

214 This bill takes effect on July 1, 2013.